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the geographic area that the applicant proposes to serve, the franchising authority must grant or deny the application within 180 days of the date the application is received by the franchising authority. A franchising authority and a competitive franchise applicant may agree in writing to extend the 90-day or 180-day deadline, whichever is applicable.

(e) If a franchising authority does not grant or deny an application within the time limit specified in paragraph (d) of this section, the competitive franchise applicant will be authorized to offer service pursuant to an interim franchise in accordance with the terms of the application submitted under paragraph (b) of this section.

(f) If after expiration of the time limit specified in paragraph (d) of this section a franchising authority denies an application, the competitive franchise applicant must discontinue operating under the interim franchise specified in paragraph (e) of this section unless the franchising authority provides consent for the interim franchise to continue for a limited period of time, such as during the period when judicial review of the franchising authority's decision is pending. The competitive franchise applicant may seek judicial review of the denial under 47 U.S.C. 555.

(g) If after expiration of the time limit specified in paragraph (d) of this section a franchising authority and a competitive franchise applicant agree on the terms of a franchise, upon the effective date of that franchise, that franchise will govern and the interim franchise will expire.

[72 FR 13215, Mar. 21, 2007]

Subpart D—Carriage of Television Broadcast Signals

§ 76.51 Major television markets.

For purposes of the cable television rules, the following is a list of the major television markets and their designated communities:

- (a) First 50 major television markets:
- (1) New York, New York-Linden-Paterson-Newark, New Jersey.
 - (2) Los Angeles-San Bernardino-Corona-Riverside-Anaheim, Calif.

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- (3) Chicago, Ill.
- (4) Philadelphia, Pa.-Burlington, N.J.
- (5) Detroit, Mich.
- (6) Boston-Cambridge-Worcester-Lawrence, Mass.
- (7) San Francisco-Oakland-San Jose, Calif.
- (8) Cleveland-Lorain-Akron, Ohio.
- (9) Washington, DC.
- (10) Pittsburgh, Pa.
- (11) St. Louis, Mo.
- (12) Dallas-Fort Worth, Tex.
- (13) Minneapolis-St. Paul, Minn.
- (14) Baltimore, Md.
- (15) Houston, Tex.
- (16) Indianapolis-Bloomington, Ind.
- (17) Cincinnati, Ohio-Newport, Ky.
- (18) Atlanta-Rome, Ga.
- (19) Hartford-New Haven-New Britain-Waterbury-New London, Ct.
- (20) Seattle-Tacoma, Wash.
- (21) Miami, Fla.
- (22) Kansas City, Mo.
- (23) Milwaukee, Wis.
- (24) Buffalo, N.Y.
- (25) Sacramento-Stockton-Modesto, Calif.
- (26) Memphis, Tenn.
- (27) Columbus-Chillicothe, Ohio.
- (28) Tampa-St. Petersburg-Clearwater, Florida.
- (29) Portland, Oreg.
- (30) Nashville, Tenn.
- (31) New Orleans, La.
- (32) Denver-Castle Rock, Colorado.
- (33) Providence, R.I.-New Bedford, Mass.
- (34) Albany-Schenectady-Troy, N.Y.
- (35) Syracuse, N.Y.
- (36) Charleston-Huntington, W. Va.
- (37) Kalamazoo-Grand Rapids-Battle Creek, Mich.
- (38) Louisville, Ky.
- (39) Oklahoma City, Okla.
- (40) Birmingham, Ala.
- (41) Dayton-Kettering, Ohio.
- (42) Charlotte, N.C.
- (43) Phoenix-Mesa, Ariz.
- (44) Norfolk-Newport News-Portsmouth-Hampton, Va.
- (45) San Antonio, Tex.
- (46) Greenville-Spartanburg-Anderson, S.C.-Asheville, N.C.
- (47) Greensboro-High Point-Winston Salem, N.C.
- (48) Salt Lake City, Utah.
- (49) Wilkes Barre-Scranton, Pa.
- (50) Little Rock-Pine Bluff, Arkansas.

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(b) Second 50 major television markets:

- (51) San Diego, Calif.
- (52) Toledo, Ohio.
- (53) Omaha, Nebr.
- (54) Tulsa, Okla.
- (55) Orlando-Daytona Beach-Melbourne-Cocoa-Clermont, Florida.
- (56) Rochester, N.Y.
- (57) Harrisburg-Lancaster-York, Pa.
- (58) Texarkana, Tex.-Shreveport, La.
- (59) Mobile, Ala.-Pensacola, Fla.
- (60) Davenport, Iowa-Rock Island-Moline, Ill.
- (61) Flint-Bay City-Saginaw, Mich.
- (62) Green Bay, Wis.
- (63) Richmond-Petersburg, Va.
- (64) Springfield-Decatur-Champaign, Illinois.
- (65) Cedar Rapids-Waterloo, Iowa.
- (66) Des Moines-Ames, Iowa.
- (67) Wichita-Hutchinson, Kans.
- (68) Jacksonville, Fla.
- (69) Cape Girardeau, Mo.-Paducah, Ky.-Harrisburg, Ill.
- (70) Roanoke-Lynchburg, Va.
- (71) Knoxville, Tenn.
- (72) Fresno-Visalia-Hanford-Clovis-Merced-Porterville, California.
- (73) Raleigh-Durham-Goldsboro-Fayetteville, North Carolina.
- (74) Johnstown-Altoona, Pa.
- (75) Portland-Poland Spring, Maine.
- (76) Spokane, Wash.
- (77) Jackson, Miss.
- (78) Chattanooga, Tenn.
- (79) Youngstown, Ohio.
- (80) South Bend-Elkhart, Ind.
- (81) Albuquerque, N. Mex.
- (82) Fort Wayne-Roanoke, Ind.
- (83) Peoria, Ill.
- (84) Greenville-Washington-New Bern, N.C.
- (85) Sioux Falls-Mitchell, S. Dak.
- (86) Evansville, Ind.
- (87) Baton Rouge, La.
- (88) Beaumont-Port Arthur, Tex.
- (89) Duluth, Minn.-Superior, Minn.
- (90) Wheeling, W. Va.-Steubenville, Ohio.
- (91) Lincoln-Hastings-Kearney, Nebr.
- (92) Lansing-Onondaga, Mich.
- (93) Madison, Wis.
- (94) Columbus, Ga.
- (95) Amarillo, Tex.
- (96) Huntsville-Decatur, Ala.
- (97) Rockford-Freeport, Ill.
- (98) Fargo-Valley City, N.D.
- (99) Monroe, La.-El Dorado, Ark.

(100) Columbia, S.C.

NOTE: Requests for changes to this list shall be made in the form of a petition for rulemaking pursuant to §1.401 of this chapter, except that such petitions shall not be subject to the public notice provisions of §1.403 of this chapter.

[37 FR 3278, Feb. 12, 1972]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 76.51, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

§ 76.53 Reference points.

The following list of reference points shall be used to identify the boundaries of the major and smaller television markets (defined in §76.5). Where a community's reference point is not given, the geographic coordinates of the main post office in the community shall be used.

State and community	Latitude	Longitude
Alabama:		
Anniston	33°39'49"	85°49'47"
Birmingham	33°31'01"	86°48'36"
Decatur	34°36'35"	86°58'45"
Demopolis	32°30'56"	87°50'07"
Dothan	31°13'27"	85°23'35"
Dozier	31°29'30"	86°21'59"
Florence	34°48'05"	87°40'31"
Huntsville	34°44'18"	86°35'19"
Louisville	31°47'00"	85°33'09"
Mobile	30°41'36"	88°02'33"
Montgomery	32°22'33"	86°18'31"
Mount Cheaha State Park	33°29'26"	85°48'30"
Selma	24°24'26"	87°01'15"
Tuscaloosa	33°12'05"	87°33'44"
Alaska:		
Anchorage	61°13'09"	149°53'29"
College	64°51'22"	147°48'38"
Fairbanks	64°50'35"	147°41'51"
Juneau	58°18'06"	134°25'09"
Sitka	57°02'58"	135°20'12"
Arizona:		
Flagstaff	35°11'54"	111°39'02"
Mesa	33°24'54"	111°49'41"
Nogales	31°20'14"	110°56'12"
Phoenix	33°27'12"	112°04'28"
Tucson	32°13'15"	110°58'08"
Yuma	32°43'16"	114°37'01"
Arkansas:		
El Dorado	33°12'39"	92°39'40"
Fayetteville	36°03'41"	94°09'38"
Fort Smith	35°23'10"	94°25'36"
Jonesboro	35°50'14"	90°42'11"
Little Rock	34°44'42"	92°16'37"
California:		
Bakersfield	35°22'31"	119°01'16"
Chico	39°44'07"	121°49'57"
Concord	37°58'46"	122°01'51"
Corona	33°52'35"	117°33'56"
El Centro	32°47'25"	115°32'45"
Eureka	40°48'08"	124°09'46"
Fontana	34°05'45"	117°26'29"
Fresno	36°44'12"	119°47'11"
Guasti	34°03'48"	117°35'10"

State and community	Latitude	Longitude	State and community	Latitude	Longitude
Hanford	36°19'51"	119°38'48"	Waycross	31°12'19"	82°21'47"
Los Angeles	34°03'15"	118°14'28"	Wrens	33°12'21"	82°23'23"
Modesto	37°38'26"	120°59'44"	Guam:		
Monterey	36°35'44"	121°53'39"	Agana	13°28'23"	144°45'00"
Oakland	37°48'03"	122°15'54"	Hawaii:		
Palm Springs	33°49'22"	116°32'46"	Hilo	19°43'42"	155°05'30"
Redding	40°34'57"	122°23'34"	Honolulu	21°18'36"	157°51'48"
Sacramento	38°34'57"	121°29'41"	Wailuku	20°53'21"	156°30'27"
Salinas	36°40'24"	121°39'25"	Idaho:		
San Bernardino	34°06'30"	117°17'28"	Boise	43°37'07"	116°11'58"
San Diego	32°42'53"	117°09'21"	Idaho Falls	43°29'39"	112°02'28"
San Francisco	37°46'39"	122°24'40"	Lewiston	46°25'05"	117°01'10"
San Jose	37°20'16"	121°53'24"	Moscow	46°43'58"	116°59'54"
San Luis Obispo	35°16'49"	120°39'34"	Pocatello	42°51'38"	112°27'01"
San Mateo	37°34'08"	122°19'16"	Twin Falls	42°33'25"	114°28'21"
Santa Barbara	34°25'18"	119°41'55"	Illinois:		
Santa Maria	34°57'02"	120°26'10"	Aurora	41°45'22"	88°18'56"
Stockton	37°57'30"	121°17'16"	Bloomington	40°28'58"	88°59'32"
Tulare	36°12'31"	119°20'35"	Carbondale	37°43'38"	89°13'00"
Ventura	34°16'47"	119°17'22"	Champaign	40°07'05"	88°14'48"
Visalia	36°19'46"	119°17'30"	Chicago	41°52'28"	87°38'22"
Colorado:			Decatur	39°50'37"	88°57'11"
Colorado Springs	38°50'07"	104°49'16"	Elgin	42°02'14"	88°16'53"
Denver	39°44'58"	104°59'22"	Freeport	42°17'57"	89°37'07"
Durango	37°16'29"	107°52'25"	Harrisburg	37°44'20"	88°32'25"
Grand Junction	39°04'06"	108°33'54"	Jacksonville	39°44'03"	90°13'44"
Montrose	38°28'44"	107°52'31"	Joliet	41°31'37"	88°04'52"
Pueblo	38°16'17"	104°36'33"	La Salle	41°19'49"	89°05'44"
Sterling	40°37'29"	103°12'25"	Moline	41°30'31"	90°30'49"
Connecticut:			Mount Vernon	38°18'29"	88°54'26"
Bridgeport	41°10'49"	73°11'22"	Olney	38°43'47"	88°05'00"
Hartford	41°46'12"	72°40'49"	Peoria	40°41'42"	89°35'33"
New Britain	41°40'02"	72°47'08"	Quincy	39°55'59"	91°24'12"
New Haven	41°18'25"	72°55'30"	Rockford	42°16'07"	89°05'48"
Norwich	41°31'36"	72°04'31"	Rock Island	41°30'40"	90°34'24"
Waterbury	41°33'13"	73°02'31"	Springfield	39°47'58"	89°38'51"
Delaware:			Urbana	40°06'41"	88°13'13"
Wilmington	39°44'46"	75°32'51"	Indiana:		
District of Columbia:			Bloomington	39°09'56"	86°31'52"
Washington	38°53'51"	77°00'33"	Elkhart	41°40'56"	85°58'15"
Florida:			Evansville	37°58'20"	87°34'21"
Clearwater	27°57'56"	82°47'51"	Fort Wayne	41°04'21"	85°08'26"
Daytona Beach	29°12'44"	81°01'10"	Gary	41°35'59"	87°20'07"
Fort Lauderdale	26°07'11"	80°08'34"	Hammond	41°35'13"	87°27'43"
Fort Myers	26°38'42"	81°52'06"	Indianapolis	39°46'07"	86°09'46"
Fort Pierce	27°26'48"	80°19'38"	Lafayette	40°25'11"	86°53'39"
Gainesville	29°38'56"	82°19'19"	Marion	40°33'17"	85°39'49"
Jacksonville	30°19'44"	81°39'42"	Muncie	40°11'28"	85°23'16"
Largo	27°54'54"	82°47'32"	Richmond	39°49'49"	84°53'26"
Leesburg	28°48'43"	81°52'30"	Roanoke	40°57'50"	85°22'30"
Melbourne	28°04'41"	80°36'29"	St. John	41°27'00"	87°28'13"
Miami	25°46'37"	80°11'32"	South Bend	41°40'33"	86°15'01"
Ocala	29°11'34"	82°08'14"	Terre Haute	39°28'03"	87°24'26"
Orlando	28°32'42"	81°22'38"	Vincennes	38°40'52"	87°31'12"
Panama City	30°09'24"	85°39'47"	Iowa:		
Pensacola	30°24'51"	87°12'56"	Ames	42°01'36"	93°36'44"
St. Petersburg	27°46'18"	82°38'16"	Cedar Rapids	41°58'48"	91°39'48"
Sarasota	27°20'05"	82°32'29"	Davenport	41°31'24"	90°34'21"
Tallahassee	30°26'30"	84°16'50"	Des Moines	41°35'14"	93°37'00"
Tampa	27°56'58"	82°27'26"	Dubuque	42°29'55"	90°40'08"
West Palm Beach	26°42'36"	80°03'05"	Fort Dodge	42°30'12"	94°11'05"
Georgia:			Iowa City	41°39'37"	91°31'52"
Albany	31°34'36"	84°09'22"	Mason City	43°09'15"	93°12'00"
Athens	33°57'34"	83°22'39"	Sioux City	42°29'46"	96°24'30"
Atlanta	33°45'10"	84°23'37"	Waterloo	42°29'40"	92°20'20"
Augusta	33°28'20"	81°58'00"	Kansas:		
Chatsworth	34°46'08"	84°46'10"	Ensign	37°38'48"	100°14'00"
Cochran	32°23'18"	83°21'18"	Garden City	37°57'54"	100°52'20"
Columbus	32°28'07"	84°59'24"	Goodland	39°20'53"	101°42'35"
Dawson	31°46'33"	84°26'20"	Great Bend	38°22'04"	98°45'58"
Macon	32°50'12"	83°37'36"	Hays	38°52'16"	99°19'57"
Pelham	31°07'42"	84°09'02"	Hutchinson	38°03'11"	97°55'20"
Savannah	32°04'42"	81°05'37"	Pittsburg	37°24'50"	94°42'11"
Thomasville	30°50'25"	83°58'59"	Salina	38°50'36"	97°36'46"

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State and community	Latitude	Longitude	State and community	Latitude	Longitude
Topeka	39°03'16"	95°40'23"	Austin	43°39'57"	92°58'20"
Wichita	37°41'30"	97°20'16"	Duluth	46°46'56"	92°06'24"
Kentucky:			Hibbing	47°25'43"	92°56'21"
Ashland	38°28'36"	82°38'23"	Mankato	44°09'49"	94°00'09"
Bowling Green	36°59'41"	86°26'33"	Minneapolis	44°58'57"	93°15'43"
Covington	39°05'00"	84°30'29"	Rochester	44°01'21"	92°28'03"
Elizabethtown	37°41'38"	85°51'35"	St. Cloud	45°33'35"	94°09'38"
Hazard	37°14'54"	83°11'31"	St. Paul	44°56'50"	93°05'11"
Lexington	38°02'50"	84°29'46"	Walker	47°05'57"	94°35'12"
Louisville	38°14'47"	85°45'49"	Mississippi:		
Madisonville	37°19'45"	87°29'54"	Biloxi	30°23'43"	88°53'08"
Morehead	38°10'53"	83°26'08"	Bude	31°27'46"	90°50'34"
Murray	36°36'35"	88°18'39"	Columbus	33°29'40"	88°25'33"
Newport	39°05'28"	84°29'20"	Greenwood	33°31'05"	90°10'55"
Owensboro	37°46'27"	87°06'46"	Gulfport	30°22'04"	89°05'36"
Owenton	38°32'11"	84°50'16"	Jackson	32°17'56"	90°11'06"
Paducah	37°05'13"	88°35'56"	Laurel	31°41'40"	89°07'48"
Pikesville	37°28'49"	82°31'09"	Meridian	32°21'57"	88°42'02"
Somerset	37°05'35"	84°36'17"	Oxford	34°22'00"	89°31'07"
Louisiana:			State College	33°27'18"	88°47'13"
Alexandria	31°18'33"	92°26'47"	Tupelo	34°15'26"	88°42'30"
Baton Rouge	30°26'58"	91°11'00"	Missouri:		
Houma	29°35'34"	90°43'09"	Cape Girardeau	37°18'29"	89°31'29"
Lafayette	30°13'24"	92°01'06"	Columbia	38°57'03"	92°19'46"
Lake Charles	30°13'45"	93°12'52"	Hannibal	39°42'24"	91°22'45"
Monroe	32°30'02"	92°06'55"	Jefferson City	38°34'40"	92°10'24"
New Orleans	29°56'53"	90°04'10"	Joplin	37°05'26"	94°30'50"
Shreveport	32°30'46"	93°44'58"	Kansas City	39°04'56"	94°35'20"
West Monroe	32°30'51"	92°08'13"	Kirksville	40°11'37"	92°34'58"
Maine:			Poplar Bluff	36°45'20"	90°23'38"
Augusta	44°18'53"	69°46'29"	St. Joseph	39°45'57"	94°51'02"
Bangor	44°48'13"	68°46'18"	St. Louis	38°37'45"	90°12'22"
Calais	45°11'04"	67°16'43"	Sedalia	38°42'08"	93°13'26"
Orono	44°53'15"	68°40'12"	Springfield	37°13'03"	93°17'32"
Poland Spring	44°01'42"	70°21'40"	Montana:		
Portland	43°39'33"	70°15'19"	Anaconda	46°07'40"	112°57'12"
Presque Isle	46°40'57"	68°00'52"	Billings	45°47'00"	108°30'04"
Maryland:			Butte	46°01'06"	112°32'11"
Baltimore	39°17'26"	76°36'45"	Glendive	47°06'42"	104°43'02"
Cumberland	39°39'01"	78°45'45"	Great Falls	47°29'33"	111°18'23"
Hagerstown	39°38'39"	77°43'15"	Helena	46°35'33"	112°02'24"
Salisbury	38°21'56"	75°35'56"	Kalispell	48°11'45"	114°18'44"
Massachusetts:			Miles City	46°24'34"	105°50'30"
Adams	42°37'30"	73°07'05"	Missoula	46°52'23"	113°59'29"
Boston	42°21'24"	71°03'25"	Nebraska:		
Cambridge	42°21'58"	71°06'24"	Albion	41°41'23"	97°59'53"
Greenfield	42°35'15"	72°35'54"	Alliance	42°06'04"	102°52'08"
New Bedford	41°38'13"	70°55'41"	Bassett	42°35'00"	99°32'10"
Springfield	42°06'21"	72°35'32"	Grand Island	40°55'33"	98°20'23"
Worcester	42°15'37"	71°48'17"	Hastings	40°35'21"	98°23'20"
Michigan:			Hayes Center	40°30'36"	101°01'18"
Allen Park	42°15'12"	83°12'57"	Hay Springs	42°41'03"	102°41'22"
Battle Creek	42°18'58"	85°10'48"	Kearney	40°41'58"	99°04'53"
Bay City	43°36'04"	83°53'15"	Lexington	40°46'30"	99°44'41"
Cadillac	44°15'10"	85°23'52"	Lincoln	40°48'59"	96°42'15"
Cheboygan	45°38'38"	84°28'38"	McCook	40°12'02"	100°37'32"
Detroit	42°19'48"	83°02'57"	Merriman	42°55'07"	101°42'02"
Escanaba	45°44'45"	87°03'18"	Norfolk	42°01'56"	97°24'42"
Flint	43°00'50"	83°41'33"	North Platte	41°08'14"	100°45'43"
Grand Rapids	42°58'03"	85°40'13"	Omaha	41°15'42"	95°56'14"
Jackson	42°14'43"	84°24'22"	Scottsbluff	41°51'40"	103°39'00"
Kalamazoo	42°17'29"	85°35'14"	Superior	40°01'12"	98°04'00"
Lansing	42°44'01"	84°33'15"	Nevada:		
Marquette	46°32'37"	87°23'43"	Elko	40°50'00"	115°45'41"
Mount Pleasant	43°16'12"	84°46'31"	Henderson	36°02'00"	114°58'57"
Muskegon	43°14'17"	86°15'02"	Las Vegas	36°10'20"	115°08'37"
Onondaga	42°26'41"	84°33'43"	Reno	39°31'27"	119°48'40"
Saginaw	43°25'52"	83°56'05"	New Hampshire:		
Sault Ste. Marie	46°29'58"	84°20'37"	Berlin	44°28'20"	71°10'43"
Traverse City	44°45'47"	85°37'25"	Durham	43°08'02"	70°55'35"
University Center	43°33'31"	83°59'09"	Hanover	43°42'03"	72°17'24"
Minnesota:			Keene	42°56'02"	72°16'44"
Alexandria	45°53'06"	95°22'39"	Lebanon	43°38'34"	72°15'12"
Appleton	45°12'00"	96°01'02"	Littleton	44°18'22"	71°46'13"

State and community	Latitude	Longitude	State and community	Latitude	Longitude
Manchester	42°59'28"	71°27'41"	Cleveland	41°29'51"	81°41'50"
New Jersey:			Columbus	39°57'47"	83°00'17"
Atlantic City	39°21'32"	74°25'53"	Dayton	39°45'32"	84°11'43"
Burlington	40°04'21"	74°51'47"	Kettering	39°41'22"	84°10'07"
Camden	39°56'45"	75°07'20"	Lima	40°44'29"	84°06'34"
Glen Ridge	40°48'16"	74°12'14"	Lorain	41°27'48"	82°10'23"
Linden	40°37'57"	74°15'22"	Marion	40°35'14"	83°07'36"
Newark	40°44'14"	74°10'19"	Newark	40°03'35"	82°24'15"
New Brunswick	40°29'38"	74°26'49"	Oxford	39°30'28"	84°44'26"
Paterson	40°54'51"	74°09'51"	Portsmouth	38°44'06"	82°59'39"
Trenton	40°13'16"	74°45'28"	Springfield	39°55'38"	83°48'29"
Vineland	39°29'13"	75°01'17"	Steubenville	40°21'42"	80°36'53"
Wildwood	38°59'18"	74°48'43"	Toledo	41°39'14"	83°32'39"
New Mexico:			Youngstown	41°05'57"	80°39'02"
Albuquerque	35°05'01"	106°39'05"	Zanesville	39°56'59"	82°00'56"
Carlsbad	32°25'09"	104°13'47"	Oklahoma:		
Clovis	34°24'11"	103°12'08"	Ada	34°46'24"	96°40'36"
Portales	34°10'58"	103°20'10"	Ardmore	34°10'18"	97°07'50"
Roswell	33°23'47"	104°31'26"	Lawton	34°36'27"	98°23'41"
New York:			Oklahoma City	35°28'26"	97°31'04"
Albany	42°39'01"	73°45'01"	Sayre	35°17'34"	99°38'23"
Binghamton	42°06'03"	75°54'47"	Tulsa	36°09'12"	95°59'34"
Buffalo	42°52'52"	78°52'21"	Oregon:		
Carthage	43°58'50"	75°36'26"	Coos Bay	43°22'02"	124°13'09"
Elmira	42°05'26"	76°48'22"	Corvallis	44°34'10"	123°16'12"
Garden City	40°43'26"	73°38'03"	Eugene	44°03'16"	123°05'30"
Ithaca	42°26'33"	76°29'42"	Klamath Falls	42°13'32"	121°46'32"
Jamestown	42°05'45"	79°14'40"	La Grande	45°19'47"	118°05'45"
New York	40°45'06"	73°59'39"	Medford	42°19'33"	122°52'31"
North Pole	44°23'59"	73°51'00"	Portland	45°31'06"	122°40'35"
Norwood	44°45'00"	75°59'39"	Roseburg	43°12'34"	123°20'26"
Oneonta	42°27'21"	75°03'42"	Salem	44°56'21"	123°01'59"
Patchogue	40°45'56"	73°00'42"	Pennsylvania:		
Plattsburgh	44°42'03"	73°27'07"	Allentown	40°36'11"	75°28'06"
Riverhead	40°55'06"	72°39'51"	Altoona	40°30'55"	78°24'03"
Rochester	43°09'41"	77°36'21"	Bethlehem	40°37'57"	75°21'36"
Schenectady	42°48'52"	73°56'24"	Clearfield	41°01'20"	78°26'10"
Syracuse	43°03'04"	76°09'14"	Erie	42°07'15"	80°04'57"
Utica	43°06'12"	75°13'33"	Harrisburg	40°15'43"	76°52'59"
Watertown	43°58'30"	75°54'48"	Hershey	40°17'04"	76°39'01"
North Carolina:			Johnstown	40°19'35"	78°55'03"
Asheville	35°35'42"	82°33'26"	Lancaster	40°02'25"	76°18'29"
Chapel Hill	35°54'51"	79°03'11"	Philadelphia	39°56'58"	75°09'21"
Charlotte	35°13'44"	80°50'45"	Pittsburgh	40°26'19"	80°00'00"
Columbia	35°55'06"	76°15'04"	Reading	40°20'09"	75°55'40"
Concord	35°24'29"	80°34'45"	Scranton	41°24'32"	75°39'46"
Durham	35°59'48"	78°54'00"	Wilkes-Barre	41°14'32"	75°53'17"
Fayetteville	35°03'12"	78°52'54"	York	39°57'35"	76°43'36"
Greensboro	36°04'17"	79°47'25"	Puerto Rico:		
Greenville	35°36'49"	77°22'22"	Aguadilla	18°25'53"	67°09'18"
Hickory	35°43'54"	81°20'20"	Arecibo	18°28'26"	66°43'39"
High Point	35°57'14"	80°00'15"	Caguas	18°13'59"	66°02'06"
Jacksonville	34°45'00"	77°25'54"	Fajardo	18°19'35"	65°39'21"
Linville	36°04'06"	81°52'16"	Mayaguez	18°12'16"	67°08'36"
New Bern	35°06'33"	77°02'23"	Ponce	18°00'51"	66°36'58"
Raleigh	35°46'38"	78°38'21"	San Juan	18°26'55"	66°03'55"
Washington	35°32'35"	77°03'16"	Rhode Island:		
Wilmington	34°14'14"	77°56'58"	Providence	41°49'32"	71°24'41"
Winston-Salem	36°05'52"	80°14'42"	South Carolina:		
North Dakota:			Allendale	33°00'30"	81°18'26"
Bismark	46°48'23"	100°47'17"	Anderson	34°30'06"	82°38'54"
Devils Lake	48°06'42"	98°51'29"	Charleston	32°46'35"	79°55'53"
Dickinson	46°52'55"	102°47'06"	Columbia	34°00'02"	81°02'00"
Fargo	46°52'30"	96°47'18"	Florence	34°11'49"	79°46'06"
Minot	48°14'09"	101°17'38"	Greenville	34°50'50"	82°24'01"
Pembina	48°58'00"	97°14'37"	Spartanburg	34°57'03"	81°56'06"
Valley City	46°55'31"	98°00'04"	South Dakota:		
Williston	48°08'47"	103°36'59"	Aberdeen	45°27'31"	98°29'03"
Ohio:			Brookings	44°18'38"	96°47'53"
Akron	41°05'00"	81°30'44"	Florence	45°03'14"	97°19'35"
Athens	39°19'38"	82°06'09"	Lead	44°21'07"	103°46'03"
Bowling Green	41°22'37"	83°39'03"	Mitchell	43°42'48"	98°01'36"
Canton	40°47'50"	81°22'37"	Pierre	44°22'06"	100°20'57"
Cincinnati	39°06'07"	84°30'35"	Rapid City	44°04'52"	103°13'11"

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State and community	Latitude	Longitude	State and community	Latitude	Longitude
Reliance	43°52'45"	99°36'18"	Virgin Islands:		
Sioux Falls	43°32'35"	96°43'35"	Charlotte Amalie	18°20'36"	64°55'53"
Vermillion	42°46'52"	96°55'35"	Christiansted	17°44'44"	64°42'21"
Tennessee:			Washington:		
Chattanooga	35°02'41"	85°18'32"	Bellingham	48°45'02"	122°28'36"
Jackson	35°36'48"	88°49'15"	Kennewick	46°12'28"	119°08'32"
Johnson City	36°19'04"	82°20'56"	Lakewood Center	47°07'37"	122°31'15"
Kingsport	36°32'57"	82°33'44"	Pasco	46°13'50"	119°05'27"
Knoxville	35°57'39"	83°55'07"	Pullman	46°43'42"	117°10'46"
Lexington	35°38'58"	88°23'31"	Richland	46°16'36"	119°16'21"
Memphis	35°08'46"	90°03'13"	Seattle	47°36'32"	122°20'12"
Nashville	36°09'33"	86°46'55"	Spokane	47°39'32"	117°25'33"
Sneedville	36°31'46"	83°13'04"	Tacoma	47°14'59"	122°26'15"
Texas:			Yakima	46°36'09"	120°30'39"
Abilene	32°27'05"	99°43'51"	West Virginia:		
Amarillo	35°12'27"	101°50'04"	Bluefield	37°15'29"	81°13'20"
Austin	30°16'09"	97°44'37"	Charleston	38°21'01"	81°37'52"
Beaumont	30°05'20"	94°06'09"	Clarksburg	39°16'50"	80°20'38"
Belton	31°03'31"	97°27'39"	Grandview	37°49'28"	81°04'20"
Big Spring	32°15'03"	101°28'38"	Huntington	38°25'12"	82°26'33"
Bryan	30°38'48"	96°21'31"	Morgantown	39°37'41"	79°57'28"
College Station	30°37'05"	96°20'41"	Oak Hill	37°58'31"	81°08'45"
Corpus Christi	27°47'51"	97°23'45"	Parkersburg	39°15'57"	81°33'46"
Dallas	32°47'09"	96°47'37"	Weston	39°02'19"	80°28'05"
El Paso	31°45'36"	106°29'11"	Wheeling	40°04'03"	80°43'20"
Fort Worth	32°44'55"	97°19'44"	Wisconsin:		
Galveston	29°18'10"	94°47'43"	Eau Claire	44°48'31"	91°29'49"
Harlingen	26°11'29"	97°41'35"	Fond Du Lac	43°46'35"	88°26'52"
Houston	29°45'26"	95°21'37"	Green Bay	44°30'48"	88°00'50"
Laredo	27°30'22"	99°30'30"	Janesville	42°40'52"	89°01'39"
Longview	32°28'24"	94°43'45"	Kenosha	42°35'04"	87°49'14"
Lubbock	33°35'05"	101°50'33"	La Crosse	43°48'48"	91°15'02"
Lufkin	31°20'14"	94°43'21"	Madison	43°04'23"	89°22'55"
Midland	31°59'54"	102°04'31"	Milwaukee	43°02'19"	87°54'15"
Monahans	31°35'16"	102°53'26"	Rhineland	45°38'09"	89°24'50"
Nacogdoches	31°36'13"	94°39'20"	Superior	46°43'14"	92°06'07"
Odessa	31°50'49"	102°22'01"	Wausau	44°57'30"	89°37'40"
Port Arthur	29°52'09"	93°56'01"	Wyoming:		
Richardson	32°57'06"	96°44'05"	Casper	42°51'00"	106°19'22"
Rosenberg	29°33'30"	95°48'15"	Cheyenne	41°08'09"	104°49'07"
San Angelo	31°27'39"	100°26'03"	Rawlins	41°47'23"	107°14'37"
San Antonio	29°25'37"	98°29'06"	Riverton	43°01'29"	108°23'03"
Sweetwater	32°28'24"	100°24'18"			
Temple	31°06'02"	97°20'22"			
Texarkana	33°25'29"	94°02'34"			
Tyler	32°21'21"	95°17'52"			
Victoria	28°48'01"	97°00'06"			
Waco	31°33'12"	97°08'00"			
Weslaco	26°09'24"	97°59'33"			
Wichita Falls	33°54'34"	98°29'28"			
Utah:					
Logan	41°44'03"	111°50'11"			
Ogden	41°13'31"	111°58'21"			
Provo	40°14'07"	111°39'34"			
Salt Lake City	40°45'23"	111°53'26"			
Vermont:					
Burlington	44°28'34"	73°12'46"			
Rutland	43°36'29"	72°58'56"			
St. Johnsbury	44°25'16"	72°01'13"			
Windsor	43°28'38"	72°23'32"			
Virginia:					
Bristol	36°35'48"	82°11'04"			
Charlottesville	38°01'52"	78°28'50"			
Goldvein	38°26'54"	77°39'19"			
Hampton	37°01'32"	76°20'32"			
Harrisonburg	38°27'01"	78°52'07"			
Lynchburg	37°24'51"	79°08'37"			
Norfolk	36°51'10"	76°17'21"			
Norton	36°56'05"	82°37'31"			
Petersburg	37°13'40"	77°24'15"			
Portsmouth	36°50'12"	76°17'54"			
Richmond	37°32'15"	77°26'09"			
Roanoke	37°16'13"	79°56'44"			
Staunton	38°09'02"	79°04'34"			

[37 FR 3278, Feb. 12, 1972, as amended at 37 FR 13866, July 14, 1972; 51 FR 18451, May 20, 1986; 51 FR 44608, Dec. 11, 1986; 54 FR 25716, June 19, 1989; 56 FR 49707, Oct. 1, 1991]

§ 76.54 Significantly viewed signals; method to be followed for special showings.

(a) Signals that are significantly viewed in a county (and thus are deemed to be significantly viewed within all communities within the county) are those that are listed in Appendix B of the memorandum opinion and order on reconsideration of the Cable Television Report and Order (Docket 18397 *et al.*), FCC 72-530, and those communities listed in the Significantly Viewed List as it appears on the official website of the Federal Communications Commission.

(b) Significant viewing in a cable television or satellite community for signals not shown as significantly viewed

under paragraphs (a) or (d) of this section may be demonstrated by an independent professional audience survey of over-the-air television homes that covers at least two weekly periods separated by at least thirty (30) days but no more than one of which shall be a week between the months of April and September. If two surveys are taken, they shall include samples sufficient to assure that the combined surveys result in an average figure at least one standard error above the required viewing level. If surveys are taken for more than 2-weekly periods in any 12 months, all such surveys must result in an average figure at least one standard error above the required viewing level. If a cable television system serves more than one community, a single survey may be taken, provided that the sample includes over-the-air television homes from each community that are proportional to the population. A satellite carrier may demonstrate significant viewing in more than one community or satellite community through a single survey, provided that the sample includes over-the-air television homes from each community that are proportional to the population.

(c) Notice of a survey to be made pursuant to paragraph (b) of this section shall be served on all licensees or permittees of television broadcast stations within whose predicted noise limited service contour, as defined in § 73.622(e) of this chapter, the cable or satellite community or communities are located, in whole or in part, and on all other system community units, franchisees, and franchise applicants in the cable community or communities at least (30) days prior to the initial survey period. Such notice shall include the name of the survey organization and a description of the procedures to be used. Objections to survey organizations or procedures shall be served on the party sponsoring the survey within twenty (20) days after receipt of such notice.

(d) Signals of television broadcast stations not encompassed by the surveys (for the periods May 1970, November 1970 and February/March 1971) used in establishing appendix B of the *Memo-randum Opinion and Order on Reconsideration of Cable Television Report and*

Order, FCC 72-530, 36 FCC 2d 326 (1972), may be demonstrated as significantly viewed on a county-wide basis by independent professional audience surveys which cover three separate, consecutive four-week periods and are otherwise comparable to the surveys used in compiling the above-referenced appendix B: *Provided, however*, That such demonstration shall be based upon audience survey data for the first three years of the subject station's broadcast operations.

(e) Satellite carriers that intend to retransmit the signal of a significantly viewed television broadcast station to a subscriber located outside such station's local market, as defined by § 76.55(e) of this chapter, must provide written notice to all television broadcast stations that are assigned to the same local market as the intended subscriber at least 60 days before commencing retransmission of the significantly viewed station. Such satellite carriers must also provide the notifications described in § 76.66(d)(5)(i) of this chapter. Such written notice must be sent via certified mail, return receipt requested, to the address for such station(s) as listed in the consolidated database maintained by the Federal Communications Commission.

(f) Satellite carriers that retransmit the signal of a significantly viewed television broadcast station to a subscriber located outside such station's local market must list all such stations and the communities to which they are retransmitted on their website.

(g) *Limitations on satellite subscriber eligibility.* A satellite carrier may retransmit a significantly viewed network station to a subscriber, provided the conditions in paragraphs (g)(1) and (g)(2) of this section are satisfied or one of the two exceptions to these conditions provided in paragraphs (g)(3) and (g)(4) of this section apply.

(1) *Local service requirement.* A satellite carrier may retransmit to a subscriber the signal of a significantly viewed station if:

(i) Such subscriber receives local-into-local service pursuant to § 76.66; and

(ii) Such satellite carrier is in compliance with § 76.65 with respect to the

stations located in the local market into which the significantly viewed station will be retransmitted.

(2) *HD format requirement.* Subject to the conditions in paragraphs (g)(2)(i) through (iv) of this section, a satellite carrier may retransmit to a subscriber in high definition (HD) format the signal of a significantly viewed station only if such carrier also retransmits in HD format the signal of a station located in the local market of such subscriber and affiliated with the same network whenever such format is available from such station, including when the HD signal is broadcast on a multicast stream.

(i) The requirement in paragraph (g)(2) of this section applies only where a satellite carrier retransmits to a subscriber the significantly viewed station in HD format, and does not restrict a satellite carrier from retransmitting to a subscriber a significantly viewed station in standard definition (SD) format.

(ii) For purposes of paragraph (g)(2) of this section, the term “HD format” refers to a picture quality resolution of 720p, 1080i, or higher.

(iii) For purposes of paragraph (g)(2) of this section, the local station’s HD signal will be considered “available” to the satellite carrier when the station:

(A) Elects mandatory carriage or grants retransmission consent;

(B) Provides a good quality HD signal to the satellite carrier’s local receive facility (LRF); and

(C) Complies with the requirements of §§ 76.65 and 76.66.

(iv) Notwithstanding the provisions of paragraph (g)(2)(iii) of this section, if the local station is willing to grant retransmission consent and make its HD signal available to the satellite carrier, but the satellite carrier does not negotiate with the local station in good faith, as required by § 76.65, then the local station’s HD signal will be deemed “available” for purposes of paragraph (g)(2) of this section.

(3) *Exception if no network affiliate in local market.* The limitations in paragraphs (g)(1) and (g)(2) of this section will not prohibit a satellite carrier from retransmitting a significantly viewed network station to a subscriber located in a local market in which

there are no network stations affiliated with the same television network as the significantly viewed station.

(4) *Exception if waiver granted by local station.* The limitations in paragraphs (g)(1) and (g)(2) of this section will not apply if, and to the extent that, the local network station affiliated with the same television network as the significantly viewed station has granted a waiver in accordance with 47 U.S.C. 340(b)(4).

(h) [Reserved]

(i) For purposes of paragraph (g) of this section, television network and network station are as defined in 47 U.S.C. 339(d).

(j) Notwithstanding the requirements of this section, the signal of a television broadcast station will be deemed to be significantly viewed if such station is shown to qualify for such status pursuant to 47 U.S.C. 341(a).

(k) Notwithstanding the other provisions of this section, a satellite carrier may not retransmit as significantly viewed the signal of a television broadcast station into the Designated Market Areas identified in 47 U.S.C. 341(b).

[37 FR 3278, Feb. 12, 1972, as amended at 37 FR 13866, July 14, 1972; 40 FR 48930, Oct. 20, 1975; 41 FR 32429, Aug. 3, 1976; 42 FR 19346, Apr. 13, 1977; 53 FR 17051, May 13, 1988; 56 FR 33392, July 22, 1991; 70 FR 76529, Dec. 27, 2005; 75 FR 72986, Nov. 29, 2010]

§ 76.55 Definitions applicable to the must-carry rules.

For purposes of the must-carry rules set forth in this subpart, the following definitions apply:

(a) *Qualified noncommercial educational (NCE) television station.* A qualified NCE television station is any television broadcast station which

(1)(i) Under the rules and regulations of the Commission in effect on March 29, 1990, is licensed by the Commission as an NCE television broadcast station and which is owned and operated by a public agency, nonprofit foundation, corporation, or association; and

(ii) Has as its licensee an entity which is eligible to receive a community service grant, or any successor grant thereto, from the Corporation for Public Broadcasting, or any successor organization thereto, on the basis of the formula set forth in section

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396(k)(6)(B) of the Communications Act of 1934, as amended; or

(2) Is owned and operated by a municipality and transmits noncommercial programs for educational purposes, as defined in § 73.621 of this chapter, for at least 50 percent of its broadcast week.

(3) This definition includes:

(i) The translator of any NCE television station with five watts or higher power serving the franchise area,

(ii) A full-service station or translator if such station or translator is licensed to a channel reserved for NCE use pursuant to § 73.606 of this chapter, or any successor regulations thereto, and

(iii) Such stations and translators operating on channels not so reserved but otherwise qualified as NCE stations.

NOTE TO PARAGRAPH (a): For the purposes of § 76.55(a), “serving the franchise area” will be based on the predicted protected contour of the NCE translator.

(b) *Qualified local noncommercial educational (NCE) television station.* A qualified local NCE television station is a qualified NCE television station:

(1) That is licensed to a community whose reference point, as defined in § 76.53 is within 80.45 km (50 miles) of the principal headend, as defined in § 76.5(pp), of the cable system; or

(2) Whose Grade B service contour encompasses the principal headend, as defined in § 76.5(pp), of the cable system.

(3) Notwithstanding the provisions of this section, a cable operator shall not be required to add the signal of a qualified local noncommercial educational television station not already carried under the provision of § 76.56(a)(5), where such signal would be considered a distant signal for copyright purposes unless such station agrees to indemnify the cable operator for any increased copyright liability resulting from carriage of such signal on the cable system.

(c) *Local commercial television station.* A local commercial television station is any full power television broadcast station, other than a qualified NCE television station as defined in paragraph (a) of this section, licensed and operating on a channel regularly assigned to its community by the Commission that, with respect to a particular cable

system, is within the same television market, as defined below in paragraph (e) of this section, as the cable system, except that the term local commercial television station does not include:

(1) Low power television stations, television translator stations, and passive repeaters with operate pursuant to part 74 of this chapter.

(2) A television broadcast station that would be considered a distant signal under the capable compulsory copyright license, 17 U.S.C. 111, if such station does not agree to indemnify the cable operator for any increased copyright liability resulting from carriage on the cable system; or

(3) A television broadcast station that does not deliver to the principal headend, as defined in § 76.5(pp), of a cable system a signal level of -45dBm for analog UHF signals, -49dBm for analog VHF signals, or -61dBm for digital signals at the input terminals of the signal processing equipment, *i.e.*, the input to the first active component of the signal processing equipment relevant to the signal at issue, if such station does not agree to be responsible for the costs of delivering to the cable system a signal of good quality or a baseband video signal.

(d) *Qualified low power station.* A qualified low power station is any television broadcast station conforming to the low power television rules contained in part 74 of this chapter, only if:

(1) Such station broadcasts for at least the minimum number of hours of operation required by the Commission for full power television broadcast stations under part 73 of this chapter;

(2) Such station meets all obligations and requirements applicable to full power television broadcast stations under part 73 of this chapter, with respect to the broadcast of nonentertainment programming; programming and rates involving political candidates, election issues, controversial issues of public importance, editorials, and personal attacks; programming for children; and equal employment opportunity; and the Commission determines that the provision of such programming by such station would address local news and informational needs which are not being adequately served

by full power television broadcast stations because of the geographic distance of such full power stations from the low power station's community of license;

(3) Such station complies with interference regulations consistent with its secondary status pursuant to part 74 of this chapter;

(4) Such station is located no more than 56.32 km (35 miles) from the cable system's principal headend, as defined in § 76.5(pp), and delivers to that headend an over-the-air signal of good quality;

(5) The community of license of such station and the franchise area of the cable system are both located outside of the largest 160 Metropolitan Statistical Areas, ranked by population, as determined by the Office of Management and Budget on June 30, 1990, and the population of such community of license on such date did not exceed 35,000; and

(6) There is no full power television broadcast station licensed to any community within the county or other equivalent political subdivision (of a State) served by the cable system.

NOTE TO PARAGRAPH (d): For the purposes of this section, a good quality signal shall mean a signal level of either -45 dBm for UHF signals or -49 dBm for VHF signals at the input terminals of the signal processing equipment, or a baseband video signal.

(e) *Television market.* (1) Until January 1, 2000, a commercial broadcast television station's market, unless amended pursuant to § 76.59, shall be defined as its Area of Dominant Influence (ADI) as determined by Arbitron and published in the Arbitron 1991-1992 Television ADI Market Guide, as noted below, except that for areas outside the contiguous 48 states, the market of a station shall be defined using Nielsen's Designated Market Area (DMA), where applicable, as published in the Nielsen 1991-92 DMA Market and Demographic Rank Report, and that Puerto Rico, the U.S. Virgin Islands, and Guam will each be considered a single market.

(2) Effective January 1, 2000, a commercial broadcast television station's market, unless amended pursuant to § 76.59, shall be defined as its Designated Market Area (DMA) as determined by Nielsen Media Research and

published in its Nielsen Station Index Directory and Nielsen Station Index US Television Household Estimates or any successor publications.

(i) For the 1999 election pursuant to § 76.64(f), which becomes effective on January 1, 2000, DMA assignments specified in the 1997-98 Nielsen Station Index Directory and September 1997 Nielsen Station Index US Television Household Estimates, available from Nielsen Media Research, 770 Broadway, New York, NY, shall be used.

(ii) The applicable DMA list for the 2002 election pursuant to § 76.64(f) will be the DMA assignments specified in the 2000-2001 list, and so forth for each triennial election pursuant to § 76.64(f).

(3) In addition, the county in which a station's community of license is located will be considered within its market.

(4) A cable system's television market(s) shall be the one or more ADI markets in which the communities it serves are located until January 1, 2000, and the one or more DMA markets in which the communities it serves are located thereafter.

(5) In the absence of any mandatory carriage complaint or market modification petition, cable operators in communities that shift from one market to another, due to the change in 1999-2000 from ADI to DMA, will be permitted to treat their systems as either in the new DMA market, or with respect to the specific stations carried prior to the market change from ADI to DMA, as in both the old ADI market and the new DMA market.

(6) If the change from the ADI market definition to the DMA market definition in 1999-2000 results in the filing of a mandatory carriage complaint, any affected party may respond to that complaint by filing a market modification request pursuant to § 76.59, and these two actions may be jointly decided by the Commission.

NOTE TO PARAGRAPH (e): For the 1996 must-carry/retransmission consent election, the ADI assignments specified in the 1991-1992 *Television ADI Market Guide*, available from the Arbitron Ratings Co., 9705 Patuxent Woods Drive, Columbia, MD, will apply. For the 1999 election, which becomes effective on January 1, 2000, DMA assignments specified in the 1997-98 *DMA Market and Demographic Rank Report*, available from Nielsen Media

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Research, 299 Park Avenue, New York, NY, shall be used. The applicable DMA list for the 2002 election will be the 2000-2001 list, etc.

(f) *Network.* For purposes of the must-carry rules, a commercial television network is an entity that offers programming on a regular basis for 15 or more hours per week to at least 25 affiliates in 10 or more states.

[58 FR 17359, Apr. 2, 1993, as amended at 58 FR 44951, Aug. 25, 1993; 59 FR 62344, Dec. 5, 1994; 61 FR 29313, June 10, 1996; 64 FR 42617, Aug. 5, 1999; 68 FR 17312, Apr. 9, 2003; 73 FR 5685, Jan. 30, 2008]

§ 76.56 Signal carriage obligations.

(a) *Carriage of qualified noncommercial educational stations.* A cable television system shall carry qualified NCE television stations in accordance with the following provisions:

(1) Each cable operator shall carry on its cable television system any qualified local NCE television station requesting carriage, except that

(i) Systems with 12 or fewer usable activated channels, as defined in § 76.6(oo), shall be required to carry the signal of one such station;

(ii) Systems with 13 to 36 usable activated channels, as defined in § 76.5(oo), shall be required to carry at least one qualified local NCE station, but not more than three such stations; and

(iii) Systems with more than 36 usable activated channels shall be required to carry the signals of all qualified local NCE television stations requesting carriage, but in any event at least three such signals; however a cable system with more than 36 channels shall not be required to carry an additional qualified local NCE station whose programming substantially duplicates the programming of another qualified local NCE station being carried on the system.

NOTE: For purposes of this paragraph, a station will be deemed to “substantially duplicate” the programming of another station if it broadcasts the same programming, simultaneous or non-simultaneous, for more than 50 percent of prime time, as defined in § 76.5(n), and more than 50 percent outside of prime time over a three-month period.

(2)(i) In the case of a cable system with 12 or fewer channels that operates beyond the presence of any qualified

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local NCE stations, the cable operator shall import one qualified NCE television station.

(ii) A cable system with between 13 and 36 channels that operates beyond the presence of any qualified local NCE stations, the cable operator shall import at least one qualified NCE television station.

(3) A cable system with 12 or fewer usable activated channels shall not be required to remove any programming service provided to subscribers as of March 29, 1990, to satisfy these requirements, except that the first available channel must be used to satisfy these requirements.

(4) A cable system with 13 to 36 usable activated channels which carries the signal of a qualified local NCE station affiliated with a State public television network shall not be required to carry more than one qualified local NCE station affiliated with such network, if the programming of such additional stations substantially duplicates, as defined in the note in paragraph (a)(1) of this section, the programming of a qualified local NCE television station receiving carriage.

(5) Notwithstanding the requirements of paragraph (a)(1) of this section, all cable operators shall continue to provide carriage to all qualified local NCE television stations whose signals were carried on their systems as of March 29, 1990. In the case of a cable system that is required to import a distance qualified NCE signal, and such system imported the signal of a qualified NCE station as of March 29, 1990, such cable system shall continue to import such signal until such time as a qualified local NCE signal is available to the cable system. This requirements may be waived with respect to a particular cable operator and a particular NCE station, upon the written consent of the cable operator and the station.

(b) *Carriage of local commercial television stations.* Effective June 2, 1993, a cable television system shall carry local commercial broadcast television stations in accordance with the following provisions:

(1) A cable system with 12 or fewer usable activated channels, as defined in § 76.5(oo), shall carry the signals of at least three qualified local commercial

television stations, except that if such system serves 300 or fewer subscribers it shall not be subject to these requirements as long as it does not delete from carriage the signal of a broadcast television station which was carried on that system on October 5, 1992.

(2) A cable system with more than 12 usable activated channels, as defined in § 76.5(oo), shall carry local commercial television stations up to one-third of the aggregate number of usable activated channels of such system.

(3) If there are not enough local commercial television stations to fill the channels set aside under paragraphs (b)(1) and (b)(2) of this section, a cable operator of a system with 35 or fewer usable activated channels, as defined in § 76.5(oo), shall, if such stations exist, carry one qualified low power television station and a cable system with more than 35 usable activated channels shall carry two qualified low power stations.

(4) Whenever the number of local commercial television stations exceeds the maximum number of signals a cable system is required to carry under paragraph (b)(1) or (b)(2) of this section, the cable operator shall have discretion in selecting which such stations shall be carried on its cable system, except that

(i) Under no circumstances shall a cable operator carry a qualified low power station in lieu of a local commercial television station; and

(ii) If the cable operator elects to carry an affiliate of a broadcast network, as defined in § 76.55(f), such cable operator shall carry the affiliate of such broadcast network whose community of license reference point, as defined in § 76.53, is closest to the principal headend, as defined in § 76.5(pp), of the cable system.

(5) A cable operator is not required to carry the signal of any local commercial television station that substantially duplicates the signal of another local commercial television station that is carried on its cable system, or to carry the signals of more than one local commercial television station affiliated with a particular broadcast network, as defined in § 76.55(f). However, if a cable operator declines to carry duplicating signals, such cable

operator shall carry the station whose community of license reference point, as defined in § 76.53, is closest to the principal headend of the cable system. For purposes of this paragraph, substantially duplicates means that a station regularly simultaneously broadcasts the identical programming as another station for more than 50 percent of the broadcast week. For purposes of this definition, only identical episodes of a television series are considered duplicative and commercial inserts are excluded from the comparison. When the stations being compared are licensed to communities in different time zones, programming aired by a station within one hour of the identical program being broadcast by another station will be considered duplicative.

(6) [Reserved]

(7) A local commercial television station carried to fulfill the requirements of this paragraph, which subsequently elects retransmission consent pursuant to § 76.64, shall continue to be carried by the cable system until the effective date of such retransmission consent election.

(c) *Use of public, educational, or governmental (PEG) channels.* A cable operator required to carry more than one signal of a qualified low power station or to add qualified local NCE stations in fulfillment of these must-carry obligations may do so, subject to approval by the franchising authority pursuant to Section 611 of the Communications Act of 1934, as amended, by placing such additional station on public, educational, or governmental channels not in use for their designated purposes.

(d) *Availability of signals.* (1) Local commercial television stations carried in fulfillment of the requirements of this section shall be provided to every subscriber of a cable system. Such signals shall be viewable via cable on all television receivers of a subscriber which are connected to a cable system by a cable operator or for which a cable operator provides a connection.

(2) Qualified local NCE television stations carried in fulfillment of the carriage obligations of a cable operator under this section shall be available to every subscriber as part of the cable system's lowest priced service tier that includes the retransmission of local

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commercial television broadcast signals.

(3) The viewability and availability requirements of this section require that, after the broadcast television transition from analog to digital service for full power television stations cable operators must either:

(i) Carry the signals of commercial and non-commercial must-carry stations in analog format to all analog cable subscribers, or

(ii) For all-digital systems, carry those signals in digital format, provided that all subscribers, including those with analog television sets, that are connected to a cable system by a cable operator or for which the cable operator provides a connection have the necessary equipment to view the broadcast content.

(4) Any costs incurred by a cable operator in downconverting or carrying alternative-format versions of signals under § 76.56(d)(3)(i) or (ii) shall be the responsibility of the cable operator.

(5) The requirements set forth in paragraph (d)(3) of this section shall cease to be effective three years from the date on which all full-power television stations cease broadcasting analog signals, unless the Commission extends the requirements in a proceeding to be conducted during the year preceding such date.

(e) Carriage of additional broadcast television signals on such system shall be at the discretion of the cable operator, subject to the retransmission consent rules, § 76.64. A cable system may also carry any ancillary or other transmission contained in the broadcast television signal.

(f) *Calculation of broadcast signals carried.* When calculating the portion of a cable system devoted to carriage of local commercial television stations under paragraph (b) of this section, a cable operator may count the primary video and program-related signals of all such stations, and any alternative-format versions of those signals, that they carry.

NOTE 1 TO § 76.56: Section 76.1620 provides notification requirements for a cable operator who authorizes subscribers to install additional receiver connections, but does not provide the subscriber with such connec-

tions, or with the equipment and materials for such connections.

NOTE 2 TO § 76.56: Section 76.1614 provides response requirements for a cable operator who receives a written request to identify its must-carry signals.

NOTE 3 TO § 76.56: Section 76.1709 provides recordkeeping requirements with regard to a cable operator's list of must-carry signals.

[58 FR 17360, Apr. 2, 1993, as amended at 58 FR 39161, July 22, 1993; 58 FR 40368, July 28, 1993; 59 FR 62344, Dec. 5, 1994; 65 FR 53614, Sept. 5, 2000; 66 FR 16553, Mar. 26, 2001; 73 FR 6054, Feb. 1, 2008]

§ 76.57 Channel positioning.

(a) At the election of the licensee of a local commercial broadcast television station, and for the purpose of this section, a qualified low power television station, carried in fulfillment of the must-carry obligations, a cable operator shall carry such signal on the cable system channel number on which the local commercial television station is broadcast over the air, or on the channel on which it was carried on July 19, 1985, or on the channel on which it was carried on January 1, 1992.

(b) At the election of the licensee of a qualified local NCE broadcast television station carried in fulfillment of the must-carry obligations, a cable operator shall carry such signal on the cable system channel number on which the qualified NCE television station is broadcast over the air, or on the channel on which it was carried on July 19, 1985.

(c) With respect to digital signals of a television station carried in fulfillment of the must-carry obligations, a cable operator shall carry the information necessary to identify and tune to the broadcast television signal.

(d) Any signal carried in fulfillment of the must-carry obligations may be carried on such other channel number as is mutually agreed upon by the station and the cable operator.

(e) At the time a local commercial station elects must-carry status pursuant to § 76.64, such station shall notify the cable system of its choice of channel position as specified in paragraphs (a), (b), and (d) of this section. A qualified NCE stations shall notify the cable system of its choice of channel position

when it requests carriage. Channel positioning requests from local commercial stations shall be fulfilled by the cable operator no later than October 6, 1993.

(f) Pursuant to § 76.64(f)(3), a local commercial broadcast television station that fails to make an election is deemed a must-carry station. A cable operator shall carry such a television station on the cable system channel number on which the local commercial television station is broadcast over the air, or on the channel on which it was carried on July 19, 1985, or on the channel on which it was carried on January 1, 1992. In the event that none of these specified channel positions is available due to a channel positioning request from a commercial television station affirmatively asserting its must-carry rights or such a request from a qualified local noncommercial educational station, the cable operator shall place the signal of such a television station on a channel of the cable system's choice, so long as that channel is included on the basic service tier.

NOTE TO § 76.57: Any existing agreement for channel position between a local commercial station entitled to must-carry status and a cable operator entered into prior to June 26, 1990, may continue through the expiration of such agreement.

[58 FR 17361, Apr. 2, 1993, as amended at 58 FR 40368, July 28, 1993; 59 FR 62345, Dec. 5, 1994; 66 FR 16553, Mar. 26, 2001]

§ 76.59 Modification of television markets.

(a) The Commission, following a written request from a broadcast station or a cable system, may deem that the television market of a particular commercial television broadcast station should include additional communities within its television market or exclude communities from such station's television market. In this respect, communities may be considered part of more than one television market.

(b) Such requests for modification of a television market shall be submitted in accordance with § 76.7, petitions for special relief, and shall include the following evidence:

(1) A map or maps illustrating the relevant community locations and geographic features, station transmitter

sites, cable system headend locations, terrain features that would affect station reception, mileage between the community and the television station transmitter site, transportation routes and any other evidence contributing to the scope of the market.

(2) Grade B contour maps delineating the station's technical service area and showing the location of the cable system headends and communities in relation to the service areas.

NOTE TO PARAGRAPH (b)(2): Service area maps using Longley-Rice (version 1.2.2) propagation curves may also be included to support a technical service exhibit.

(3) Available data on shopping and labor patterns in the local market.

(4) Television station programming information derived from station logs or the local edition of the television guide.

(5) Cable system channel line-up cards or other exhibits establishing historic carriage, such as television guide listings.

(6) Published audience data for the relevant station showing its average all day audience (*i.e.*, the reported audience averaged over Sunday-Saturday, 7 a.m.-1 a.m., or an equivalent time period) for both cable and noncable households or other specific audience indicia, such as station advertising and sales data or viewer contribution records.

(c) Petitions for Special Relief to modify television markets that do not include such evidence shall be dismissed without prejudice and may be refiled at a later date with the appropriate filing fee.

(d) A cable operator shall not delete from carriage the signal of a commercial television station during the pendency of any proceeding pursuant to this section.

[58 FR 17361, Apr. 2, 1993, as amended at 64 FR 33796, June 24, 1999; 67 FR 53892, Aug. 22, 2002]

§ 76.60 Compensation for carriage.

A cable operator is prohibited from accepting or requesting monetary payment or other valuable consideration in exchange either for carriage or channel positioning of any broadcast television station carried in fulfillment of

the must-carry requirements, except that

(a) Any such station may be required to bear the costs associated with delivering a good quality signal or a baseband video signal to the principal headend of the cable system; or

(b) A cable operator may accept payments from stations which would be considered distant signals under the cable compulsory copyright license, 17 U.S.C. 111, as indemnification for any increased copyright liability resulting from carriage of such signal.

NOTE: A cable operator may continue to accept monetary payment or other valuable consideration in exchange for carriage or channel positioning of the signal of any local commercial television station carried in fulfillment of the must-carry requirements, through, but not beyond, the date of expiration of an agreement between a cable operator and a local commercial television station entered into prior to June 26, 1990.

(c) A cable operator may accept payments from stations pursuant to a retransmission consent agreement, even if such station will be counted towards the must-carry complement, as long as all other applicable rules are adhered to.

[58 FR 17362, Apr. 2, 1993, as amended at 59 FR 62345, Dec. 5, 1994]

§ 76.61 Disputes concerning carriage.

(a) *Complaints regarding carriage of local commercial television stations.* (1) Whenever a local commercial television station or a qualified low power television station believes that a cable operator has failed to meet its carriage or channel positioning obligations, pursuant to §§ 76.56 and 76.57, such station shall notify the operator, in writing, of the alleged failure and identify its reasons for believing that the cable operator is obligated to carry the signal of such station or position such signal on a particular channel.

(2) The cable operator shall, within 30 days of receipt of such written notification, respond in writing to such notification and either commence to carry the signal of such station in accordance with the terms requested or state its reasons for believing that it is not obligated to carry such signal or is in compliance with the channel positioning and repositioning and other re-

quirements of the must-carry rules. If a refusal for carriage is based on the station's distance from the cable system's principal headend, the operator's response shall include the location of such headend. If a cable operator denies carriage on the basis of the failure of the station to deliver a good quality signal at the cable system's principal headend, the cable operator must provide a list of equipment used to make the measurements, the point of measurement and a list and detailed description of the reception and over-the-air signal processing equipment used, including sketches such as block diagrams and a description of the methodology used for processing the signal at issue, in its response.

(3) A local commercial television station or qualified low power television station that is denied carriage or channel positioning or repositioning in accordance with the must-carry rules by a cable operator may file a complaint with the Commission in accordance with the procedures set forth in § 76.7 of this part. In addition to the requirements of § 76.7 of this part, such complaint shall specifically:

(i) Allege the manner in which such cable operator has failed to meet its obligations and the basis for such allegations.

(ii) Be accompanied by the notice from the complainant to the cable television system operator, and the cable television system operator's response, if any. If no timely response was received, the complaint shall so state.

(iii) Establish the complaint is being filed within the sixty-day deadline stated in paragraph (a)(5) of this section.

(4) If the Commission determines that a cable operator has failed to meet its must-carry obligations, the Commission shall order that, within 45 days of such order or such other time period as the Commission may specify, the cable operator reposition the complaining station or, in the case of an obligation to carry a station, commence or resume carriage of the station and continue such carriage for at least 12 months. If the Commission determines that the cable operator has fully met the must-carry requirements, it shall dismiss the complaint.

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(5) No must-carry complaint filed pursuant to paragraph (a) of this section will be accepted by the Commission if filed more than sixty (60) days after—

(i) The denial by a cable television system operator of request for carriage or channel position contained in the notice required by paragraph (a)(1) of this section, or

(ii) The failure to respond to such notice within the time period allowed by paragraph (a)(2) of this section.

(b) *Complaints regarding carriage of qualified local NCE television stations.* (1) Whenever a qualified local NCE television station believes that a cable operator has failed to comply with the signal carriage or channel positioning requirements, pursuant to §§ 76.56 through 76.57 of this part, the station may file a complaint with the Commission in accordance with the procedures set forth in § 76.7 of this part. In addition to the requirements of § 76.7 of this part, such complaint shall specifically:

(i) Allege the manner in which such cable operator has failed to comply with such requirements and state the basis for such allegations.

(ii) Be accompanied by any relevant correspondence between the complainant and the cable television system operator.

(2) If the Commission determines that a cable operator has failed to meet its must-carry obligations, the Commission shall order that, within 45 days of such order or such other period as the Commission may specify, the cable operator reposition the complaining station or, in the case of an obligation to carry a station, commence or resume carriage of the station and continue such carriage for a period of time the Commission deems appropriate for the specific case under consideration. If the Commission determines that the cable operator has fully met the must-carry requirements, it shall dismiss the complaint.

(3) With respect to must-carry complaints filed pursuant to paragraph (b) of this section, such complaints may be filed at any time the complainant believes that the cable television system operator has failed to comply with the

applicable provisions of subpart D of this part.

[58 FR 17362, Apr. 2, 1993, as amended at 64 FR 6572, Feb. 10, 1999]

§ 76.62 Manner of carriage.

(a) Cable operators shall carry the entirety of the program schedule of any television station (including low power television stations) carried by the system unless carriage of specific programming is prohibited, and other programming authorized to be substituted, under § 76.67 or subpart F of part 76, or unless carriage is pursuant to a valid retransmission consent agreement for the entire signal or any portion thereof as provided in § 76.64.

(b) Each digital television broadcast signal carried shall be carried without material degradation. Each analog television broadcast signal carried shall be carried without material degradation and in compliance with technical standards set forth in subpart K of this part.

(c) Each local commercial television station whose signal is carried shall, to the extent technically feasible and consistent with good engineering practice, be provided no less than the same quality of signal processing and carriage provided for carriage of any other type of standard television signal.

(d) Each qualified local noncommercial educational television station whose signal is carried shall be provided with bandwidth and technical capacity equivalent to that provided to commercial television broadcast stations carried.

(e) Each commercial broadcast television station carried pursuant to § 76.56 shall include in its entirety the primary video, accompanying audio, and closed captioning data contained in line 21 of the vertical blanking interval and, to the extent technically feasible, program-related material carried in the vertical blanking interval or on subcarriers. Where appropriate and feasible, operators may delete signal enhancements, such as ghost-canceling, from the broadcast signal and employ such enhancements at the system headend or headends.

(f) Each qualified local NCE television station carried pursuant to § 76.56 shall include in its entirety the

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primary video, accompanying audio, and closed captioning data contained in line 21 of the vertical blanking interval and, to the extent technically feasible, program-related material carried in the vertical blanking interval or on subcarriers, that may be necessary for receipt of programming by handicapped persons or for educational or language purposes.

(g) With respect to carriage of digital signals, operators are not required to carry ancillary or supplementary transmissions or non-program related video material.

(h) If a digital television broadcast signal is carried in accordance with § 76.62(b) and either (c) or (d), the carriage of that signal in additional formats does not constitute material degradation.

[58 FR 17362, Apr. 2, 1993, as amended at 59 FR 62345, Dec. 5, 1994; 66 FR 16553, Mar. 26, 2001; 73 FR 6054, Feb. 1, 2008]

§ 76.64 Retransmission consent.

(a) After 12:01 a.m. on October 6, 1993, no multichannel video programming distributor shall retransmit the signal of any commercial broadcasting station without the express authority of the originating station, except as provided in paragraph (b) of this section.

(b) A commercial broadcast signal may be retransmitted without express authority of the originating station if—

(1) The distributor is a cable system and the signal is that of a commercial television station (including a low-power television station) that is being carried pursuant to the Commission's must-carry rules set forth in § 76.56;

(2) The multichannel video programming distributor obtains the signal of a superstation that is distributed by a satellite carrier and the originating station was a superstation on May 1, 1991, and the distribution is made only to areas outside the local market of the originating station; or

(3) The distributor is a satellite carrier and the signal is transmitted directly to a home satellite antenna, provided that:

(i) The broadcast station is not owned or operated by, or affiliated with, a broadcasting network and its

signal was retransmitted by a satellite carrier on May 1, 1991, or

(ii) The broadcast station is owned or operated by, or affiliated with a broadcasting network, and the household receiving the signal is an unserved household.

(c) For purposes of this section, the following definitions apply:

(1) A satellite carrier is an entity that uses the facilities of a satellite or satellite service licensed by the Federal Communications Commission, to establish and operate a channel of communications for point-to-multipoint distribution of television station signals, and that owns or leases a capacity or service on a satellite in order to provide such point-to-multipoint distribution, except to the extent that such entity provides such distribution pursuant to tariff under the Communications Act of 1934, other than for private home viewing;

(2) A superstation is a television broadcast station other than a network station, licensed by the Federal Communications Commission that is secondarily transmitted by a satellite carrier;

(3) An unserved household with respect to a television network is a household that

(i) Cannot receive, through the use of a conventional outdoor rooftop receiving antenna, an over-the-air signal of grade B intensity of a primary network station affiliated with that network, and

(ii) Has not, within 90 days before the date on which that household subscribes, either initially or on renewal, received secondary transmissions by a satellite carrier of a network station affiliated with that network, subscribed to a cable system that provides the signal of a primary network station affiliated with the network.

(4) A primary network station is a network station that broadcasts or rebroadcasts the basic programming service of a particular national network;

(5) The terms "network station," and "secondary transmission" have the meanings given them in 17 U.S.C. 111(f).

(d) A multichannel video program distributor is an entity such as, but not limited to, a cable operator, a BRS/

EBS provider, a direct broadcast satellite service, a television receive-only satellite program distributor, or a satellite master antenna television system operator, that makes available for purchase, by subscribers or customers, multiple channels of video programming.

(e) The retransmission consent requirements of this section are not applicable to broadcast signals received by master antenna television facilities or by direct over-the-air reception in conjunction with the provision of service by a multichannel video program distributor provided that the multichannel video program distributor makes reception of such signals available without charge and at the subscribers option and provided further that the antenna facility used for the reception of such signals is either owned by the subscriber or the building owner; or under the control and available for purchase by the subscriber or the building owner upon termination of service.

(f) Commercial television stations are required to make elections between retransmission consent and must-carry status according to the following schedule:

(1) The initial election must be made by June 17, 1993.

(2) Subsequent elections must be made at three year intervals; the second election must be made by October 1, 1996 and will take effect on January 1, 1997; the third election must be made by October 1, 1999 and will take effect on January 1, 2000, etc.

(3) Television stations that fail to make an election by the specified deadline will be deemed to have elected must carry status for the relevant three-year period.

(4) New television stations and stations that return their analog spectrum allocation and broadcast in digital only shall make their initial election any time between 60 days prior to commencing broadcast and 30 days after commencing broadcast or commencing broadcasting in digital only; such initial election shall take effect 90 days after it is made.

(5) Television broadcast stations that become eligible for must carry status with respect to a cable system or sys-

tems due to a change in the market definition may, within 30 days of the effective date of the new definition, elect must-carry status with respect to such system or systems. Such elections shall take effect 90 days after they are made.

(g) If one or more franchise areas served by a cable system overlaps with one or more franchise areas served by another cable system, television broadcast stations are required to make the same election for both cable systems.

(h) On or before each must-carry/retransmission consent election deadline, each television broadcast station shall place copies of all of its election statements in the station's public file, and shall send via certified mail to each cable system in the station's defined market a copy of the station's election statement with respect to that operator.

(i) Notwithstanding a television station's election of must-carry status, if a cable operator proposes to retransmit that station's signal without according the station must-carry rights (*i.e.*, pursuant to § 76.56(e)), the operator must obtain the station's express authority prior to retransmitting its signal.

(j) Retransmission consent agreements between a broadcast station and a multichannel video programming distributor shall be in writing and shall specify the extent of the consent being granted, whether for the entire signal or any portion of the signal. This rule applies for either the analog or the digital signal of a television station.

(k) A cable system commencing new operation is required to notify all local commercial and noncommercial broadcast stations of its intent to commence service. The cable operator must send such notification, by certified mail, at least 60 days prior to commencing cable service. Commercial broadcast stations must notify the cable system within 30 days of the receipt of such notice of their election for either must-carry or retransmission consent with respect to such new cable system. If the commercial broadcast station elects must-carry, it must also indicate its channel position in its election statement to the cable system. Such

election shall remain valid for the remainder of any three-year election interval, as established in § 76.64(f)(2). Noncommercial educational broadcast stations should notify the cable operator of their request for carriage and their channel position. The new cable system must notify each station if its signal quality does not meet the standards for carriage and if any copyright liability would be incurred for the carriage of such signal. Pursuant to § 76.57(e), a commercial broadcast station which fails to respond to such a notice shall be deemed to be a must-carry station for the remainder of the current three-year election period.

(l) Exclusive retransmission consent agreements are prohibited. No television broadcast station shall make or negotiate any agreement with one multichannel video programming distributor for carriage to the exclusion of other multichannel video programming distributors. This paragraph shall terminate at midnight on February 28, 2010, provided that if Congress further extends this date, the rules remain in effect until the statutory authorization expires.

(m) A multichannel video programming distributor providing an all-band FM radio broadcast service (a service that does not involve the individual processing of specific broadcast signals) shall obtain retransmission consents from all FM radio broadcast stations that are included on the service that have transmitters located within 92 kilometers (57 miles) of the receiving antenna for such service. Stations outside of this 92 kilometer (57 miles) radius shall be presumed not to be carried in an all-band reception mode but may affirmatively assert retransmission consent rights by providing 30 days advance notice to the distributor.

NOTE 1 TO § 76.64: Section 76.1608 provides notification requirements for a cable system that changes its technical configuration in such a way as to integrate two formerly separate cable systems.

[58 FR 17363, Apr. 2, 1993, as amended at 59 FR 62345, Dec. 5, 1994; 65 FR 15575, Mar. 23, 2000; 65 FR 53615, Sept. 5, 2000; 66 FR 16553, Mar. 26, 2001; 67 FR 17015, Apr. 9, 2002; 69 FR 72045, Dec. 10, 2004; 70 FR 40224, July 13, 2005; 74 FR 69286, Dec. 31, 2009]

§ 76.65 Good faith and exclusive retransmission consent complaints.

(a) *Duty to negotiate in good faith.* Television broadcast stations and multichannel video programming distributors shall negotiate in good faith the terms and conditions of retransmission consent agreements to fulfill the duties established by section 325(b)(3)(C) of the Act; provided, however, that it shall not be a failure to negotiate in good faith if:

(1) The television broadcast station proposes or enters into retransmission consent agreements containing different terms and conditions, including price terms, with different multichannel video programming distributors if such different terms and conditions are based on competitive marketplace considerations; or

(2) The multichannel video programming distributor enters into retransmission consent agreements containing different terms and conditions, including price terms, with different broadcast stations if such different terms and conditions are based on competitive marketplace considerations. If a television broadcast station or multichannel video programming distributor negotiates in accordance with the rules and procedures set forth in this section, failure to reach an agreement is not an indication of a failure to negotiate in good faith.

(b) *Good faith negotiation*—(1) *Standards.* The following actions or practices violate a broadcast television station's or multichannel video programming distributor's (the "Negotiating Entity") duty to negotiate retransmission consent agreements in good faith:

(i) Refusal by a Negotiating Entity to negotiate retransmission consent;

(ii) Refusal by a Negotiating Entity to designate a representative with authority to make binding representations on retransmission consent;

(iii) Refusal by a Negotiating Entity to meet and negotiate retransmission consent at reasonable times and locations, or acting in a manner that unreasonably delays retransmission consent negotiations;

(iv) Refusal by a Negotiating Entity to put forth more than a single, unilateral proposal;

(v) Failure of a Negotiating Entity to respond to a retransmission consent proposal of the other party, including the reasons for the rejection of any such proposal;

(vi) Execution by a Negotiating Entity of an agreement with any party, a term or condition of which, requires that such Negotiating Entity not enter into a retransmission consent agreement with any other television broadcast station or multichannel video programming distributor; and

(vii) Refusal by a Negotiating Entity to execute a written retransmission consent agreement that sets forth the full understanding of the television broadcast station and the multichannel video programming distributor.

(2) *Totality of the circumstances.* In addition to the standards set forth in § 76.65(b)(1), a Negotiating Entity may demonstrate, based on the totality of the circumstances of a particular retransmission consent negotiation, that a television broadcast station or multichannel video programming distributor breached its duty to negotiate in good faith as set forth in § 76.65(a).

(c) *Good faith negotiation and exclusivity complaints.* Any television broadcast station or multichannel video programming distributor aggrieved by conduct that it believes constitutes a violation of the regulations set forth in this section or § 76.64(1) may commence an adjudicatory proceeding at the Commission to obtain enforcement of the rules through the filing of a complaint. The complaint shall be filed and responded to in accordance with the procedures specified in § 76.7.

(d) *Burden of proof.* In any complaint proceeding brought under this section, the burden of proof as to the existence of a violation shall be on the complainant.

(e) *Time limit on filing of complaints.* Any complaint filed pursuant to this subsection must be filed within one year of the date on which one of the following events occurs:

(1) A complainant enters into a retransmission consent agreement with a television broadcast station or multichannel video programming distributor that the complainant alleges to violate one or more of the rules contained in this subpart; or

(2) A television broadcast station or multichannel video programming distributor engages in retransmission consent negotiations with a complainant that the complainant alleges to violate one or more of the rules contained in this subpart, and such negotiation is unrelated to any existing contract between the complainant and the television broadcast station or multichannel video programming distributor; or

(3) The complainant has notified the television broadcast station or multichannel video programming distributor that it intends to file a complaint with the Commission based on a request to negotiate retransmission consent that has been denied, unreasonably delayed, or unacknowledged in violation of one or more of the rules contained in this subpart.

(f) *Termination of rules.* This section shall terminate at midnight on February 28, 2010, provided that if Congress further extends this date, the rules remain in effect until the statutory authorization expires.

[70 FR 40224, July 13, 2005, as amended at 74 FR 69286, Dec. 31, 2009]

§ 76.66 Satellite broadcast signal carriage.

(a) *Definitions*—(1) *Satellite carrier.* A satellite carrier is an entity that uses the facilities of a satellite or satellite service licensed by the Federal Communications Commission, and operates in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of the Code of Federal Regulations, to establish and operate a channel of communications for point-to-multipoint distribution of television station signals, and that owns or leases a capacity or a service on a satellite in order to provide such point-to-multipoint distribution, except to the extent that such entity provides such distribution pursuant to tariff under the Communications Act of 1934, other than for private home viewing.

(2) *Secondary transmission.* A secondary transmission is the further transmitting of a primary transmission simultaneously with the primary transmission.

(3) *Subscriber*. A subscriber is a person who receives a secondary transmission service from a satellite carrier and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.

(4) *Television broadcast station*. A television broadcast station is an over-the-air commercial or noncommercial television broadcast station licensed by the Commission under subpart E of part 73 of title 47, Code of Federal Regulations, except that such term does not include a low-power or translator television station.

(5) *Television network*. For purposes of this section, a television network is an entity which offers an interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated broadcast stations in 10 or more States.

(6) *Local-into-local television service*. A satellite carrier is providing local-into-local service when it retransmits a local television station signal back into the local market of that television station for reception by subscribers.

(b) *Signal carriage obligations*. (1) Each satellite carrier providing, under section 122 of title 17, United States Code, secondary transmissions to subscribers located within the local market of a television broadcast station of a primary transmission made by that station, shall carry upon request the signals of all television broadcast stations located within that local market, subject to section 325(b) of title 47, United States Code, and other paragraphs in this section. Satellite carriers are required to carry digital-only stations upon request in markets in which the satellite carrier is providing any local-into-local service pursuant to the statutory copyright license.

(2) A satellite carrier that offers multichannel video programming distribution service in the United States to more than 5,000,000 subscribers shall, no later than December 8, 2005, carry upon request the signal originating as an analog signal of each television broadcast station that is located in a local market in Alaska or Hawaii; and shall, no later than June 8, 2007, carry upon request the signals originating as digital signals of each television broadcast station that is located in a local

market in Alaska or Hawaii. Such satellite carrier is not required to carry the signal originating as analog after commencing carriage of digital signals on June 8, 2007. Carriage of signals originating as digital signals of each television broadcast station that is located in a local market in Alaska or Hawaii shall include the entire free over-the-air signal, including multicast and high definition digital signals.

(c) *Election cycle*. In television markets where a satellite carrier is providing local-into-local service, a commercial television broadcast station may elect either retransmission consent, pursuant to section 325 of title 47 United States Code, or mandatory carriage, pursuant to section 338, title 47 United States Code.

(1) The first retransmission consent-mandatory carriage election cycle shall be for a four-year period commencing on January 1, 2002 and ending December 31, 2005.

(2) The second retransmission consent-mandatory carriage election cycle, and all cycles thereafter, shall be for a period of three years (e.g. the second election cycle commences on January 1, 2006 and ends at midnight on December 31, 2008).

(3) A commercial television station must notify a satellite carrier, by July 1, 2001, of its retransmission consent-mandatory carriage election for the first election cycle commencing January 1, 2002.

(4) Except as provided in paragraphs (c)(6), (d)(2) and (d)(3) of this section, local commercial television broadcast stations shall make their retransmission consent-mandatory carriage election by October 1st of the year preceding the new cycle for all election cycles after the first election cycle.

(5) A noncommercial television station must request carriage by July 1, 2001 for the first election cycle and must renew its carriage request at the same time a commercial television station must make its retransmission consent-mandatory carriage election for all subsequent cycles.

(6) A commercial television broadcast station located in a local market in Alaska or Hawaii shall make its retransmission consent-mandatory carriage election by October 1, 2005, for

carriage of its signal that originates as an analog signal for carriage commencing on December 8, 2005, and by April 1, 2007, for its signal that originates as a digital signal for carriage commencing on June 8, 2007 and ending on December 31, 2008. For analog and digital signal carriage cycles commencing after December 31, 2008, such stations shall follow the election cycle in paragraphs (c)(2) and (4). A non-commercial television broadcast station located in a local market in Alaska or Hawaii must request carriage by October 1, 2005, for carriage of its signal that originates as an analog signal for carriage commencing on December 8, 2005, and by April 1, 2007, for its signal that originates as a digital signal for carriage commencing on June 8, 2007 and ending on December 31, 2008.

(d) *Carriage procedures*—(1) *Carriage requests.* (i) An election for mandatory carriage made by a television broadcast station shall be treated as a request for carriage. For purposes of this paragraph concerning carriage procedures, the term election request includes an election of retransmission consent or mandatory carriage.

(ii) An election request made by a television station must be in writing and sent to the satellite carrier's principal place of business, by certified mail, return receipt requested.

(iii) A television station's written notification shall include the:

- (A) Station's call sign;
- (B) Name of the appropriate station contact person;
- (C) Station's address for purposes of receiving official correspondence;
- (D) Station's community of license;
- (E) Station's DMA assignment; and
- (F) For commercial television stations, its election of mandatory carriage or retransmission consent.

(iv) Within 30 days of receiving a television station's carriage request, a satellite carrier shall notify in writing:

(A) those local television stations it will not carry, along with the reasons for such a decision; and

(B) those local television stations it intends to carry.

(v) A satellite carrier is not required to carry a television station, for the duration of the election cycle, if the station fails to assert its carriage

rights by the deadlines established in this section.

(2) *New local-into-local service.* (i) A new satellite carrier or a satellite carrier providing local service in a market for the first time after July 1, 2001, shall inform each television broadcast station licensee within any local market in which a satellite carrier proposes to commence carriage of signals of stations from that market, not later than 60 days prior to the commencement of such carriage

(A) Of the carrier's intention to launch local-into-local service under this section in a local market, the identity of that local market, and the location of the carrier's proposed local receive facility for that local market;

(B) Of the right of such licensee to elect carriage under this section or grant retransmission consent under section 325(b);

(C) That such licensee has 30 days from the date of the receipt of such notice to make such election; and

(D) That failure to make such election will result in the loss of the right to demand carriage under this section for the remainder of the 3-year cycle of carriage under section 325.

(ii) Satellite carriers shall transmit the notices required by paragraph (d)(2)(i) of this section via certified mail to the address for such television station licensee listed in the consolidated database system maintained by the Commission.

(iii) A satellite carrier with more than five million subscribers shall provide the notice as required by paragraphs (d)(2)(i) and (ii) of this section to each television broadcast station located in a local market in Alaska or Hawaii, not later than March 1, 2007 with respect to carriage of digital signals; provided, further, that the notice shall also describe the carriage requirements pursuant to 47 U.S.C. 338(a)(4), and paragraph (b)(2) of this section.

(iv) A satellite carrier shall commence carriage of a local station by the later of 90 days from receipt of an election of mandatory carriage or upon commencing local-into-local service in the new television market.

(v) Within 30 days of receiving a local television station's election of mandatory carriage in a new television market, a satellite carrier shall notify in writing: Those local television stations it will not carry, along with the reasons for such decision, and those local television stations it intends to carry.

(vi) Satellite carriers shall notify all local stations in a market of their intent to launch HD carry-one, carry-all in that market at least 60 days before commencing such carriage.

(3) *New television stations.* (i) A television station providing over-the-air service in a market for the first time on or after July 1, 2001, shall be considered a new television station for satellite carriage purposes.

(ii) A new television station shall make its election request, in writing, sent to the satellite carrier's principal place of business by certified mail, return receipt requested, between 60 days prior to commencing broadcasting and 30 days after commencing broadcasting. This written notification shall include the information required by paragraph (d)(1)(iii) of this section.

(iii) A satellite carrier shall commence carriage within 90 days of receiving the request for carriage from the television broadcast station or whenever the new television station provides over-the-air service.

(iv) Within 30 days of receiving a new television station's election of mandatory carriage, a satellite carrier shall notify the station in writing that it will not carry the station, along with the reasons for such decision, or that it intends to carry the station.

(4) Television broadcast stations must send election requests as provided in paragraphs (d)(1), (2), and (3) of this section on or before the relevant deadline.

(5) *Elections in markets in which significantly viewed signals are carried.* (i) Beginning with the election cycle described in § 76.66(c)(2), the retransmission of significantly viewed signals pursuant to § 76.54 by a satellite carrier that provides local-into-local service is subject to providing the notifications to stations in the market pursuant to paragraphs (d)(5)(i)(A) and (B) of this section, unless the satellite carrier was

retransmitting such signals as of the date these notifications were due.

(A) In any local market in which a satellite carrier provided local-into-local service on December 8, 2004, at least 60 days prior to any date on which a station must make an election under paragraph (c) of this section, identify each affiliate of the same television network that the carrier reserves the right to retransmit into that station's local market during the next election cycle and the communities into which the satellite carrier reserves the right to make such retransmissions;

(B) In any local market in which a satellite carrier commences local-into-local service after December 8, 2004, at least 60 days prior to the commencement of service in that market, and thereafter at least 60 days prior to any date on which the station must thereafter make an election under § 76.66(c) or (d)(2), identify each affiliate of the same television network that the carrier reserves the right to retransmit into that station's local market during the next election cycle.

(ii) A television broadcast station located in a market in which a satellite carrier provides local-into-local television service may elect either retransmission consent or mandatory carriage for each county within the station's local market if the satellite carrier provided notice to the station, pursuant to paragraph (d)(5)(i) of this section, that it intends to carry during the next election cycle, or has been carrying on the date notification was due, in the station's local market another affiliate of the same network as a significantly viewed signal pursuant to § 76.54.

(iii) A television broadcast station that elects mandatory carriage for one or more counties in its market and elects retransmission consent for one or more other counties in its market pursuant to paragraph (d)(5)(ii) of this section shall conduct a unified negotiation for the entire portion of its local market for which retransmission consent is elected.

(iv) A television broadcast station that receives a notification from a satellite carrier pursuant to paragraph (d)(5)(i) of this section with respect to an upcoming election cycle may choose

either retransmission consent or mandatory carriage for any portion of the 3-year election cycle that is not covered by an existing retransmission consent agreement.

(e) *Market definitions.* (1) A local market, in the case of both commercial and noncommercial television broadcast stations, is the designated market area in which a station is located, and

(i) In the case of a commercial television broadcast station, all commercial television broadcast stations licensed to a community within the same designated market area within the same local market; and

(ii) In the case of a noncommercial educational television broadcast station, the market includes any station that is licensed to a community within the same designated market area as the noncommercial educational television broadcast station.

(2) A designated market area is the market area, as determined by Nielsen Media Research and published in the 1999-2000 Nielsen Station Index Directory and Nielsen Station Index United States Television Household Estimates or any successor publication. In the case of areas outside of any designated market area, any census area, borough, or other area in the State of Alaska that is outside of a designated market area, as determined by Nielsen Media Research, shall be deemed to be part of one of the local markets in the State of Alaska.

(3) A satellite carrier shall use the 1999-2000 Nielsen Station Index Directory and Nielsen Station Index United States Television Household Estimates to define television markets for the first retransmission consent-mandatory carriage election cycle commencing on January 1, 2002 and ending on December 31, 2005. The 2003-2004 Nielsen Station Index Directory and Nielsen Station Index United States Television Household Estimates shall be used for the second retransmission consent-mandatory carriage election cycle commencing January 1, 2006 and ending December 31, 2008, and so forth for each triennial election pursuant to this section. Provided, however, that a county deleted from a market by Nielsen need not be subtracted from a market in which a satellite carrier pro-

vides local-into-local service, if that county is assigned to that market in the 1999-2000 Nielsen Station Index Directory or any subsequent issue of that publication. A satellite carrier may determine which local market in the State of Alaska will be deemed to be the relevant local market in connection with each subscriber in an area in the State of Alaska that is outside of a designated market, as described in paragraph (e)(2) of this section.

(4) A local market includes all counties to which stations assigned to that market are licensed.

(f) *Receive facilities.* (1) A local receive facility is the reception point in each local market which a satellite carrier designates for delivery of the signal of the station for purposes of retransmission.

(2) A satellite carrier may establish another receive facility to serve a market if the location of such a facility is acceptable to at least one-half the stations with carriage rights in that market.

(3) Except as provided in 76.66(d)(2), a satellite carrier providing local-into-local service must notify local television stations of the location of the receive facility by June 1, 2001 for the first election cycle and at least 120 days prior to the commencement of all election cycles thereafter.

(4) A satellite carrier may relocate its local receive facility at the commencement of each election cycle. A satellite carrier is also permitted to relocate its local receive facility during the course of an election cycle, if it bears the signal delivery costs of the television stations affected by such a move. A satellite carrier relocating its local receive facility must provide 60 days notice to all local television stations carried in the affected television market.

(g) *Good quality signal.* (1) A television station asserting its right to carriage shall be required to bear the costs associated with delivering a good quality signal to the designated local receive facility of the satellite carrier or to another facility that is acceptable to at least one-half the stations asserting the right to carriage in the local market.

(2) To be considered a good quality signal for satellite carriage purposes, a television station shall deliver to the local receive facility of a satellite carrier either a signal level of -45dBm for UHF signals or -49dBm for VHF signals at the input terminals of the signal processing equipment.

(3) A satellite carrier is not required to carry a television station that does not agree to be responsible for the costs of delivering a good quality signal to the receive facility.

(h) *Duplicating signals.* (1) A satellite carrier shall not be required to carry upon request the signal of any local television broadcast station that substantially duplicates the signal of another local television broadcast station which is secondarily transmitted by the satellite carrier within the same local market, or the signals of more than one local commercial television broadcast station in a single local market that is affiliated with a particular television network unless such stations are licensed to communities in different States.

(2) A satellite carrier may select which duplicating signal in a market it shall carry.

(3) A satellite carrier may select which network affiliate in a market it shall carry.

(4) A satellite carrier is permitted to drop a local television station whenever that station meets the substantial duplication criteria set forth in this paragraph. A satellite carrier must add a television station to its channel lineup if such station no longer duplicates the programming of another local television station.

(5) A satellite carrier shall provide notice to its subscribers, and to the affected television station, whenever it adds or deletes a station's signal in a particular local market pursuant to this paragraph.

(6) A commercial television station substantially duplicates the programming of another commercial television station if it simultaneously broadcasts the identical programming of another station for more than 50 percent of the broadcast week.

(7) A noncommercial television station substantially duplicates the programming of another noncommercial

station if it simultaneously broadcasts the same programming as another noncommercial station for more than 50 percent of prime time, as defined by § 76.5(n), and more than 50 percent outside of prime time over a three month period. Provided, however, that after three noncommercial television stations are carried, the test of duplication shall be whether more than 50 percent of prime time programming and more than 50 percent outside of prime time programming is duplicative on a non-simultaneous basis.

(i) *Channel positioning.* (1) No satellite carrier shall be required to provide the signal of a local television broadcast station to subscribers in that station's local market on any particular channel number or to provide the signals in any particular order, except that the satellite carrier shall retransmit the signal of the local television broadcast stations to subscribers in the stations' local market on contiguous channels.

(2) The television stations subject to this paragraph include those carried under retransmission consent.

(3) All local television stations carried under mandatory carriage in a particular television market must be offered to subscribers at rates comparable to local television stations carried under retransmission consent in that same market.

(4) Within a market, no satellite carrier shall provide local-into-local service in a manner that requires subscribers to obtain additional equipment at their own expense or for an additional carrier charge in order to obtain one or more local television broadcast signals if such equipment is not required for the receipt of other local television broadcast signals.

(5) All television stations carried under mandatory carriage, in a particular market, shall be presented to subscribers in the same manner as television stations that elected retransmission consent, in that same market, on any navigational device, on-screen program guide, or menu provided by the satellite carrier.

(j) *Manner of carriage.* (1) Each television station carried by a satellite carrier, pursuant to this section, shall include in its entirety the primary video, accompanying audio, and closed

captioning data contained in line 21 of the vertical blanking interval and, to the extent technically feasible, program-related material carried in the vertical blanking interval or on subcarriers. For noncommercial educational television stations, a satellite carrier must also carry any program-related material that may be necessary for receipt of programming by persons with disabilities or for educational or language purposes. Secondary audio programming must also be carried. Where appropriate and feasible, satellite carriers may delete signal enhancements, such as ghost-canceling, from the broadcast signal and employ such enhancements at the local receive facility.

(2) A satellite carrier, at its discretion, may carry any ancillary service transmission on the vertical blanking interval or the aural baseband of any television broadcast signal, including, but not limited to, multichannel television sound and teletext.

(k) *Material degradation.* (1) Each local television station whose signal is carried under mandatory carriage shall, to the extent technically feasible and consistent with good engineering practice, be provided with the same quality of signal processing provided to television stations electing retransmission consent, including carriage of HD signals in HD if any local station in the same market is carried in HD. A satellite carrier is permitted to use reasonable digital compression techniques in the carriage of local television stations.

(2) Satellite carriers must provide carriage of local stations' HD signals if any local station in the same market is carried in HD, pursuant to the following schedule:

(i) In at least 15% of the markets in which they carry any station pursuant to the statutory copyright license in HD by February 17, 2010;

(ii) In at least 30% of the markets in which they carry any station pursuant to the statutory copyright license in HD no later than February 17, 2011;

(iii) In at least 60% of the markets in which they carry any station pursuant to the statutory copyright license in HD no later than February 17, 2012; and

(iv) In 100% of the markets in which they carry any station pursuant to the statutory copyright license in HD by February 17, 2013.

(1) *Compensation for carriage.* (1) A satellite carrier shall not accept or request monetary payment or other valuable consideration in exchange either for carriage of local television broadcast stations in fulfillment of the mandatory carriage requirements of this section or for channel positioning rights provided to such stations under this section, except that any such station may be required to bear the costs associated with delivering a good quality signal to the receive facility of the satellite carrier.

(2) A satellite carrier may accept payments from a station pursuant to a retransmission consent agreement.

(m) *Remedies.* (1) Whenever a local television broadcast station believes that a satellite carrier has failed to meet its obligations under this section, such station shall notify the carrier, in writing, of the alleged failure and identify its reasons for believing that the satellite carrier failed to comply with such obligations.

(2) The satellite carrier shall, within 30 days after such written notification, respond in writing to such notification and comply with such obligations or state its reasons for believing that it is in compliance with such obligations.

(3) A local television broadcast station that disputes a response by a satellite carrier that it is in compliance with such obligations may obtain review of such denial or response by filing a complaint with the Commission, in accordance with § 76.7 of title 47, Code of Federal Regulations. Such complaint shall allege the manner in which such satellite carrier has failed to meet its obligations and the basis for such allegations.

(4) The satellite carrier against which a complaint is filed is permitted to present data and arguments to establish that there has been no failure to meet its obligations under this section.

(5) The Commission shall determine whether the satellite carrier has met its obligations under this section. If the Commission determines that the satellite carrier has failed to meet such

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obligations, the Commission shall order the satellite carrier to take appropriate remedial action. If the Commission determines that the satellite carrier has fully met the requirements of this section, it shall dismiss the complaint.

(6) The Commission will not accept any complaint filed later than 60 days after a satellite carrier, either implicitly or explicitly, denies a television station's carriage request.

[66 FR 7430, Jan. 23, 2001, as amended at 66 FR 49135, Sept. 26, 2001; 70 FR 21670, Apr. 27, 2005; 70 FR 51668, Aug. 31, 2005; 70 FR 53079, Sept. 7, 2005; 73 FR 24508, May 5, 2008]

§ 76.70 Exemption from input selector switch rules.

(a) In any case of cable systems serving communities where no portion of the community is covered by the predicted Grade B contour of at least one full service broadcast television station, or non-commercial educational television translator station operating with 5 or more watts output power and where the signals of no such broadcast stations are "significantly viewed" in the county where such a cable system is located, the cable system shall be exempt from the provisions of § 76.66. Cable systems may be eligible for this exemption where they demonstrate with engineering studies prepared in accordance with § 73.686 of this chapter or other showings that broadcast signals meeting the above criteria are not actually viewable within the community.

(b) Where a new full service broadcast television station, or new non-commercial educational television translator station with 5 or more watts, or an existing such station of either type with newly upgraded facilities provides predicted Grade B service to a community served by a cable system previously exempt under paragraph (a) of this section, or the signal of any such broadcast station is newly determined to be "significantly viewed" in the county where such a cable system is located, the cable system at that time is required to comply fully with the provisions of § 76.66. Cable systems may retain their exemption under paragraph (a) of this section where they demonstrate with engineer-

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ing studies prepared in accordance with § 73.686 of this chapter or other showings that broadcast signals meeting the above criteria are not actually viewable within the community.

[54 FR 25716, June 19, 1989]

Subpart E—Equal Employment Opportunity Requirements

SOURCE: 50 FR 40855, Oct. 7, 1985, unless otherwise noted.

§ 76.71 Scope of application.

(a) The provisions of this subpart shall apply to any corporation, partnership, association, joint-stock company, or trust engaged primarily in the management or operation of any cable system. Cable entities subject to these provisions include those systems defined in § 76.5(a), all satellite master antenna television systems serving 50 or more subscribers, and any multichannel video programming distributor. For purposes of the provisions of this subpart, a multichannel video programming distributor is an entity such as, but not limited to, a cable operator, a BRS/EBS provider, a direct broadcast satellite service, a television receive-only satellite program distributor, or a video dialtone program service provider, who makes available for purchase, by subscribers or customers, multiple channels of video programming, whether or not a licensee. Multichannel video programming distributors do not include any entity which lacks control over the video programming distributed. For purposes of this subpart, an entity has control over the video programming it distributes, if it selects video programming channels or programs and determines how they are presented for sale to consumers. Notwithstanding the foregoing, the regulations in this subpart are not applicable to the owners or originators (of programs or channels of programming) that distribute six or fewer channels of commonly-owned video programming over a leased transport facility. For purposes of this subpart, programming services are "commonly-owned" if the same entity holds a majority of the stock (or is a general partner) of each program service.